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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/535,405	05/18/2005	Brian Arthur Cavill	15430.0001	5997
27890	7590 01/10/2006		EXAMINER	
STEPTOE & JOHNSON LLP			TRAN, HOANG Q	
	ECTICUT AVENUE, N.W. ON, DC 20036		ART UNIT	PAPER NUMBER
			2874	

DATE MAILED: 01/10/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

		SF			
	Application No.	Applicant(s)			
	10/535,405	CAVILL, BRIAN ARTHUR			
Office Action Summary	Examiner	Art Unit			
	Hoang Tran	2874			
The MAILING DATE of this communication ap	pears on the cover sheet with the	correspondence address			
Period for Reply	VIC CET TO EVOIDE AMONTH	(C) OR THIRTY (20) DAYS			
A SHORTENED STATUTORY PERIOD FOR REPL WHICHEVER IS LONGER, FROM THE MAILING ID. - Extensions of time may be available under the provisions of 37 CFR 1. after SIX (6) MONTHS from the mailing date of this communication. - If NO period for reply is specified above, the maximum statutory period. - Failure to reply within the set or extended period for reply will, by stature Any reply received by the Office later than three months after the mailing earned patent term adjustment. See 37 CFR 1.704(b).	DATE OF THIS COMMUNICATIO .136(a). In no event, however, may a reply be tind I will apply and will expire SIX (6) MONTHS from te, cause the application to become ABANDONE	N. mely filed the mailing date of this communication. ED (35 U.S.C. § 133).			
Status					
Responsive to communication(s) filed on This action is FINAL . 2b)⊠ This 3)□ Since this application is in condition for allowed closed in accordance with the practice under	is action is non-final. ance except for formal matters, pr				
Disposition of Claims					
4) ☐ Claim(s) 1-10 is/are pending in the application 4a) Of the above claim(s) is/are withdra 5) ☐ Claim(s) is/are allowed. 6) ☐ Claim(s) 1-10 is/are rejected. 7) ☐ Claim(s) is/are objected to. 8) ☐ Claim(s) are subject to restriction and/	awn from consideration.				
Application Papers					
9) The specification is objected to by the Examin	er.				
10)⊠ The drawing(s) filed on 18 May 2005 is/are: a)⊠ accepted or b) objected to by the Examiner.					
Applicant may not request that any objection to the	• • • • • • • • • • • • • • • • • • • •				
Replacement drawing sheet(s) including the correct 11) The oath or declaration is objected to by the E	= ' '				
Priority under 35 U.S.C. § 119					
12) Acknowledgment is made of a claim for foreig	n priority under 35 U.S.C. § 119(a	ı)-(d) or (f).			
a) ☐ All b) ☐ Some * c) ☐ None of: 1. ☐ Certified copies of the priority documer					
2. Certified copies of the priority documer3. Copies of the certified copies of the priority					
application from the International Burea	au (PCT Rule 17.2(a)).				
* See the attached detailed Office action for a lis	t of the certified copies not receiv	ed.			
Attachment(s)					
1) Notice of References Cited (PTO-892) 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)	4) Interview Summar Paper No(s)/Mail D				
 Notice of Dransperson's Patent Drawing Review (PTO-948) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08 Paper No(s)/Mail Date <u>06/10/2005</u>. 		Patent Application (PTO-152)			

Art Unit: 2874

DETAILED ACTION

Priority

Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

Claim 10 contains the trademark/trade name Ductal. Where a trademark or trade name is used in a claim as a limitation to identify or describe a particular material or product, the claim does not comply with the requirements of 35 U.S.C. 112, second paragraph. See *Ex parte Simpson*, 218 USPQ 1020 (Bd. App. 1982). The claim scope is uncertain since the trademark or trade name cannot be used properly to identify any particular material or product. A trademark or trade name is used to identify a source of goods, and not the goods themselves. Thus, a trademark or trade name does not identify or describe the goods associated with the trademark or trade name. In the present case, the trademark/trade name is used to identify/describe the material of the protective device and, accordingly, the identification/description is indefinite.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

⁽b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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Claims 1-7 and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by the US Patent to Briscoe (6,431,216).

In terms of Claim 1, Briscoe teaches a protective device for use in the protection of at least a portion of an elongated article (Fig 1), the protective device including a main body, first and second parts which connectible together such that (Fig 8), in an assembled position the main body has a chamber therein, the first and second parts each having two longitudinal extending side edge portions respective side edge portions of the first part being adapted to cooperate with respective side edge portions of the second part to connect the two parts together in the assembled position, said first and second parts overlapping when the assembled position and being connected together by relative movement in the axial direction so as to adopt the assembled position (Fig 5).

As for Claim 2, Briscoe teaches the device of claim 1, wherein the first and second parts are partially circular when viewed in cross-section, the first part comprising a major segment of a circle and the second part forming a minor segment of a circle (Fig 8).

As for Claim 3, Briscoe teaches the device of claim 1, wherein the side edge portions of the first or second part include a recessed section for receiving the side edge portion of the other part (Fig 7 [38 and 40]).

As for Claim 4, Briscoe teaches the device of claim 1, wherein when the assembled position the main body is open at least one end (Fig 6).

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As for Claim 5, Briscoe teaches the device of claim 1, wherein the when in the assembled position the main body is open at both ends (Fig 6).

As for Claim 6, Briscoe teaches the device of claim 1, wherein one of the ends of the main body is belled for receiving the other end of an adjacent device (Fig 6).

As for Claim 7, Briscoe teaches the device of claim 1, further including insulation on the internal surface of one or both parts of the main body (Col 3 [20-40]).

As for Claim 9, Briscoe teaches the device of claim 1, wherein the main body of the device is formed from material know as reactive powder concrete or ultra high performance fiber reinforced concrete (Col 4 [1-5]).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Briscoe (6,431,216) in view of the US Patent to Muller (6,730,846).

With respect to Claim 8, Briscoe teaches the protective device of claim 1. Briscoe does not teach a protective device of claim 1, further including a locating element which projects from the inner wall of one of the two parts. Muller does teach a protective device including a locating element in order to properly align the internal wiring. A motivation for such an application would be to prevent interference between the outside layers of the protective device with the actually wiring/fiber during transmission. This

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application also increases transmission quality since the wiring or fibers inside the protective device is properly align. It would have been obvious at the time of the invention to apply the teaching of Muller to the protective device of Briscoe to further ensure high quality transmission of the fiber/wiring cables.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hoang Tran whose telephone number is 571-272-5049. The examiner can normally be reached on 9:00AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rodney Bovernick can be reached on 571-272-2344. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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Hoang Tran AU 2874 January 6, 2006

> SUNG PAK PRIMARY EXAMINER

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